

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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WACLAW SOBCZAK and RADOSLAW :
GARDOCKI, on behalf of themselves and others :
similar situated, :
 :
Plaintiffs, :
 :
- against - :
 :
AWL INDUSTRIES INC., PAVLOVICH & :
COMPANY, LLC and ROBERT PAVLOVICH, :
 :
Defendants. :
----- X

Civil Action No.:
07-1226 (BMC) (RER)
 :
 : **DEFENDANTS' NOTICE OF**
 : **MOTION FOR JUDGMENT**
 : **ON THE PLEADINGS, OR**
 : **ALTERNATIVELY, FOR**
 : **SUMMARY JUDGMENT**

PLEASE TAKE NOTICE that, pursuant to 29 U.S.C. §§ 206, 207 and 216(b), and 29 C.F.R. § 778.108, based on all the pleadings and proceedings herein, the Declaration of Waclaw Sobczak, dated May 25, 2007, submitted in support of Plaintiffs' motion for approval of a collective action notice and the Declaration of Andrzej Lasica, dated May 25, 2007, submitted in support of Plaintiffs' motion for approval of a collective action notice, Defendants AWL Industries Inc., Pavlovich & Company, LLC and Robert Pavlovich (collectively "Defendants") will move this Court, at a date and time to be determined by the Court, pursuant to Fed. R. Civ. P. 12(c) for an order dismissing the Plaintiffs' claims under the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 201, et seq., with prejudice on the grounds that Plaintiffs' claims fail to state a claim upon which relief can be granted and that Defendants are entitled to judgment on the pleadings on those claims, or alternatively, for an order pursuant to Fed. R. Civ. P. 56 on the grounds that there are no genuine issues of material fact and that Defendants are entitled to judgment as a matter of law.

The grounds for this motion, which are set forth in more detail in Defendants' Memorandum of Law in Opposition to Plaintiffs' Motion For Approval of Collective Action

Notice, are that the Plaintiffs claims fail as a matter of law under the FLSA as they are based on the contention that they were entitled to overtime pay calculated at the wage rate at which they claim that they should have been paid under a prevailing wage schedule as opposed to the prevailing wage rate that they were actually paid.

PLEASE TAKE FURTHER NOTICE, that Defendants will further move the Court pursuant to 28 U.S.C. § 1367 to dismiss Plaintiffs' remaining claims, which are all premised upon state law, for lack of supplemental jurisdiction in the event that Plaintiffs' FLSA claims are dismissed by the Court.

PLEASE TAKE FURTHER NOTICE that, pursuant to the Court's August 24, 2007 Order, Plaintiffs' responsive papers, if any, are due on or before September 17, 2007.

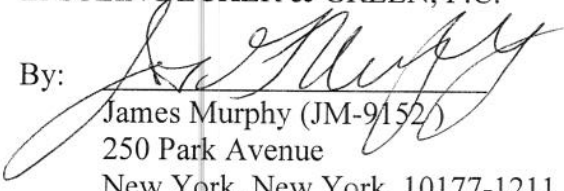
WHEREFORE, Defendants respectfully request that the Court (a) dismiss Plaintiffs' FLSA claims in their entirety with prejudice, or alternatively, grant Defendants summary judgment on Plaintiffs' FLSA claims; (b) dismiss Plaintiffs' remaining claims for lack of supplemental jurisdiction under 28 U.S.C. § 1367; and (c) award Defendants such other and further relief as the Court deems just and appropriate.

Dated: New York, New York
August 31, 2007

Respectfully submitted,

EPSTEIN BECKER & GREEN, P.C.

By:

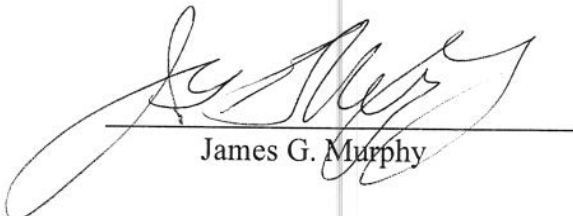

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(212) 351-4500
Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that I am attorney admitted to practice before the United States District Court of the Eastern District of New York and that on August 31, 2007, I caused to be served a copy of the foregoing Defendants' Notice Of Motion For Judgment on the Pleadings, Or Alternatively, For Summary Judgment by ECF and by first class mail, postage pre-paid, upon the attorney for Plaintiffs and addressed as follows:

Robert Wisniewski, Esq.
Robert Wisniewski & Associates, P.C.
225 Broadway, Suite 612
New York, New York 10007

Dated: August 31, 2007
New York, New York



James G. Murphy